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January 6, 2017

VIA ECF

Honorable Paul A. Engelmayer, U.S.D.J.
Thurgood Marshall U.S. Courthouse
Courtroom 1035
40 Foley Square
New York, NY 10007

RE: Pathway Genomics Corp. v. JCPR, Inc., et al.
Docket No. 16 Civ. 8926 (PAE)
Joint letter in advance of January 13, 2017 initial pretrial conference

Dear Judge Engelmayer:

We represent Plaintiff Pathway Genomics Corporation ("PGC"). Frederick Johs and Bryan Lewis of Lewis Johs Avallone & Aviles, LLP represents Defendant JCPR, Inc. ("JCPR"). This letter is submitted on both parties' behalf as their joint letter in advance of the initial pretrial conference scheduled for January 13, 2017 at 9:00 a.m.

The Case

In or around July 2015, PGC engaged JCPR to act as PGC's professional public relations firm.

On March 21, 2016, PGC filed a five-count Complaint against JCPR and Defendants Dan Pine ("Pine") and International Commercial Business Recovery, Inc. ("ICBR") in the Superior Court of California, San Diego County. The first count states a claim for professional negligence against JCPR only and alleges that JCPR arranged interviews with hostile media outlets and reporters which resulted in coverage and media articles damaging to PGC. The second count seeks a declaratory judgment against JCPR only stating whether an enforceable written contract exists between PGC and JCPR. The third and fourth counts state claims for intentional and negligent misrepresentations, respectively, and allege that JCPR made misstatements on its website and in printed materials regarding JCPR's experience, expertise and knowledge. The fifth and final count states a claim under California's unfair competition statute and alleges that JCPR, ICBR and ICBR's employee Pine harassed and threatened PGC in attempting to collect

PGC's alleged debt to JCPR. Among other relief, PGC's Complaint seeks special damages in excess of $10 million. [Doc. 1 at Ex. A]

On April 20, 2016, JCPR filed a notice of removal removing the case to the United States District Court for the Southern District of California based on diversity jurisdiction. [Doc. 1]

On May 2, 2016, JCPR filed an Answer to PGC's Complaint and a one-count Counterclaim against PGC stating a claim for breach of contract and demanding $60,000 in damages. [Doc. 2]

Thereafter, JCPR moved to transfer the case to this Court based on a forum selection clause contained in an alleged contract between PGC and JCPR. PGC opposed the transfer motion. [Doc. 10] By Order filed November 15, 2016, the Southern District of California granted that motion and transferred the case to this Court. [Doc. 13]

Contemplated Motions

The parties do not contemplate any further motions prior to the completion of discovery. Both parties reserve the right to move for summary judgment, in whole or in part, following the completion of discovery.

Settlement Prospects

The parties would like to pursue settlement as soon as practicable through the District's mediation program.

Respectfully submitted,

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Bryan F. Lewis, Esq. (Via ECF)